

EXHIBIT 4

ADMISSIONS: Mike Love Autobiography

"We were all excited about the impending purchase— not just Brian but Dennis, Carl, and Al as well. This was our music, our legacy, and we didn't want Murry to have anything to do with it. Our business manager, Nick Grillo, was involved in the negotiations. Letters were written. Meetings were held. Updates were given. But months passed, and nothing got finalized. I assumed this was just the way the business works.

I was wrong. On August 20, 1969, Grillo told us that the Sea of Tunes had indeed been sold— but not to the Beach Boys. It had been sold to Almo/ Irving, the music-publishing arm of A& M Records. A& M agreed to pay \$ 700,000 for the entire catalog, and the payment was going to Uncle Murry. In cash."

Love, Mike; Hirsch, James S.. Good Vibrations: My Life as a Beach Boy (p. 224). Penguin Publishing Group. Kindle Edition.

"When I reached his house, I stormed into his room and asked what happened with our songs.

"My dad fucked us," he said.

"Yeah, no shit."

"Brian appeared angry, but he didn't do anything to try to stop his father. I had no sway with Murry, but I did call Chuck Kaye, the head of Almo/ Irving, and cursed him out for being party to such a betrayal. I also told him that Murry was responsible for driving both Brian and Dennis to drugs, and now he had screwed all three of his sons as well as his nephew. "This is the most chickenshit thing he could have done," I said.

Love, Mike; Hirsch, James S.. Good Vibrations: My Life as a Beach Boy (p. 225). Penguin Publishing Group. Kindle Edition.

"Yeah," Kaye agreed, "we all know Murry is an asshole, and he is hard to deal with. But this is what he wants to do. He sold it to us, and there's nothing you can do."

"Actually, there was something. For the deal to go through, the agreement had to be signed by Brian, Dennis, Carl, Al, and me. No signatures, no sale. The Beach Boys, however, had a lawyer, Abe Somer, who told us that it was a done deal

and that everything was in order— Murry controlled the catalog and could do with it what he wanted. We had no recourse.

"I complained bitterly. I told Somer that many of my songs had not been credited, so what could I do if they were now owned by a third party?

"Somer worked for a big Los Angeles law firm Mitchell, Silberberg & Knupp, and I had no reason to question his judgment. He said I was all confused. He told me that I had to sign the agreement to ensure that I kept my name on the songs that I had already been credited for. If I didn't sign it, I could lose credit for those as well.

"Those were my options: If I signed the agreement, I would never receive credit for "California Girls," "Help Me, Rhonda," "I Get Around," "Surfin' USA," and many other songs that I cowrote. But if I refused to sign the agreement, I might lose credit for "Good Vibrations," "Surfin' Safari," and "The Warmth of the Sun," among others.

"That's one helluva choice. What could I do? I had to sign the agreement to retain what I had. Everyone else signed too, and with that, we lost all that we had created.

"I couldn't get any answers, from Somer or anyone else, on how Murry had stolen our songs, sold them, and walked away with \$ 700,000. We were all in the dark. As Al later said, "It was done quite in a cloak-and-dagger kind of way, really. Very mystifying." I don't know if Murry ever shared any of that money with his sons, but I never saw a penny. I suspect that Murry needed a few more dollars for himself."

Love, Mike, Hirsch, James S.. Good Vibrations: My Life as a Beach Boy (pp. 225-226). Penguin Publishing Group. Kindle Edition.

"It was, of course, one of the dumbest decisions in music history. The Beach Boys didn't die, and the catalog was a cash machine for decades to come, generating more than a hundred million dollars in publishing royalties, none of which Murry or the Beach Boys ever saw."

Love, Mike; Hirsch, James S.. Good Vibrations: My Life as a Beach Boy (p. 227). Penguin Publishing Group. Kindle Edition.

"The sale of the catalog, for me, had a long ripple effect. For years, I'd been expecting a lump sum of money for the lost royalties on my songs, and, once the writing credits were fixed, I assumed I'd be receiving a new flow of income. Now all that money owed would stay with Brian and those future songwriting royalties would also go to Brian. The rest of us would have to make do, and without any new hit records, that meant even greater reliance on touring. It was lose-lose for me and the touring band. Instead of being recognized and promoted as the co-lyricist of our most popular songs (three No. 1s and ten originals that charted in the Top 10), I was simply the perennial front man, and any effort on my part to set the record straight was seen as my vanity run amuck."

Love, Mike; Hirsch, James S.. Good Vibrations: My Life as a Beach Boy (p. 228). Penguin Publishing Group. Kindle Edition.

"Reaching my limits forced me to consider what I was doing with my life. At the time, I was fighting for custody of Hayleigh and Christian, and I knew I had to be stronger, and smarter, for them. I had a lot at stake professionally as well. I was angry that our music had been stolen from us and that I had lost a huge part of my own legacy. I realized that the only way I could claim ownership of the songs that I had written, the only way I could stay connected to them, was to be a road dog: to rejoin the guys, get back onstage, and take our music to all four corners of the country and beyond.

"That would be my nourishment, and my revenge."

Love, Mike; Hirsch, James S.. Good Vibrations: My Life as a Beach Boy (p. 230). Penguin Publishing Group. Kindle Edition.

"The walls were closing in, as Landy's principal— maybe only— source of income was now Brian, not as a patient but as a business partner. It was all the more reason for Landy to lead the charge against Irving Music. That suit, filed in September of 1989, sought \$ 50 million in lost publishing royalties and \$ 50 million in punitive damages, while the catalog itself, if reclaimed, was thought to be worth much more. Landy was to receive 15 percent of all proceeds."

Love, Mike; Hirsch, James S.. Good Vibrations: My Life as a Beach Boy (pp. 343-344). Penguin Publishing Group. Kindle Edition.

"In December of 1989, my attorney and I met with Brian and his lawyers as well as Landy to review my involvement in the case. I told them that I had drawn up a list of songs that I had cowritten but not been credited on, including "California Girls" as well as "I Get Around," "Help Me, Rhonda," "Catch a Wave," and "Be True to Your School"—several dozen in all, which was only a partial list of the songs that I had written with Brian. I told them that I wanted credit for my songs.

"Landy jumped off the sofa, yelled that I had no talent, and asked, "How dare you make this claim now?"

"Landy understood that if I were given credit, the songwriter royalties that had been flowing to Brian as the sole author would now be divided with me, which would mean less money for Brian and less for his business partner, Eugene Landy. But I didn't budge from my demand, and we secured the promises from Brian's lawyers: if they prevailed, I would receive credit on those songs while also collecting 30 percent of the lawsuit's proceeds, or a minimum of \$ 2 million.

"It was a strange time, in so many ways, as I was involved in two simultaneous legal proceedings with Brian— one allied with him and Landy in their claims against Irving Music, and one trying to drive them apart."

Love, Mike; Hirsch, James S.. *Good Vibrations: My Life as a Beach Boy* (p. 344). Penguin Publishing Group. Kindle Edition.

Chapter 23 "Universal Truth"

"If the legal proceedings against Landy had a satisfactory end, those against Irving Music did not. I was utterly blindsided.

"In October of 1991, my lawyer told me that Brian had decided to settle with Irving Music, and the proposed settlement was \$ 10 million for all claims— a fraction of what Brian's lawyers thought they could win. In a phone call, my attorney told me that I would not receive any of those proceeds, nor would I receive credit on any of the songs that I wrote. The case would soon be over, and there wasn't anything I could do about it.

"After hanging up, I paced back and forth across the house, not so much in rage but in disbelief, asking myself over and over again, What the fuck just happened? I had been deposed for two full days for this lawsuit, and I had helped them get \$ 10 million, and now, no money, no song credits, nothing. This was the

third time I had been screwed. First when Murry didn't give me credit. Then when Murry sold the catalog. And now this time.

"We needed to get away, and in December, Jacquelyne and I took our son, Brian, now three, to the Maharishi Ayurveda Health Center in Lancaster, Massachusetts. We went for panchakarma, or "five actions," in which herbal products, oil massages, and other treatments are used to purify the body. The center was run by Deepak Chopra.

"Just as Jacquelyne spoke to him in her time of need, I sat down with Deepak and told him what happened with the lawsuit. Deepak told me I had to meet a lawyer who had represented him and was at the center right now. His name was Mike Flynn, and he might be able to help.

"Mike joined Jacquelyne and me for dinner. He was lean, with straight dark hair and sharp angular features. Even at a health spa, he didn't seem like the relaxing type, and the more I told him about what happened, the more interested he became. He preferred cases that involved "huge injustices"—right versus wrong, underdog versus top dog, good versus evil. "When I'm looking into the eyes of the jury," he later said, "I want to be wearing the white hat."

"Mike Flynn had spent eight years fighting the Church of Scientology and had helped put three of its leaders in prison. He liked high-profile cases as well, representing Joan Kennedy and, later, Monica Lewinsky, though he turned down Michael Jackson.

"Our spiritual faith created a common bond—Mike Flynn had practiced TM since 1974— but it was his legal faith that separated him from all others. Dating back to the 1960s, every lawyer I had spoken to about my music-related legal problems had told me the same thing: yes, I'd been cheated, but there was nothing I could do.

"Lost causes, combined with huge injustices, were the very causes that Mike Flynn embraced. His willingness to help me was a revelation, but we still needed to do our astrological vetting. Jacquelyne asked Mike over dinner what his birth date was and what time he was born. He excused himself to call his mother and returned with the information. Then Jacquelyne left the table and returned with our astrologer's planetary assessment of Mike: "In the twelfth House of Justice, he has an exalted Jupiter."

"That was good enough for Jacquelyne. "Hire him," she said. Mike Flynn, who had offices in San Diego County, began his work, and it included filing a suit against HarperCollins for defamation in Brian's memoir. The book itself cast Gene Landy as Brian's savior (Landy also collected a third of the \$ 250,000 advance), while

depicting me and the other members of the band as shameless malefactors who exploited Brian. Over the years, I've told many people, including reporters, that *Wouldn't It Be Nice* is "my favorite book that I've never read," because HarperCollins settled the suit for a good deal of money. But that flippant remark deflected my true feelings. I read as much of Brian's book as I could stomach and was stung by the false attacks against me, some of which were recycled from the 1970s. Describing me as "smarmy," "creepy," and "flashing an evil grin," the memoir falsely claimed that I "hated everything" about Pet Sounds, alleged that I had cost Brother Records "millions of dollars in lost royalties" in bad business decisions, and blamed me for Brian's descent into "booze, drugs, and food." Writing songs with cousin Mike, Brian wrote, "had nearly killed me several times over."

"What was most irritating was Brian's disparagement of me and virtually everyone in the Beach Boys as musical incompetents. "The proper thing," Brian wrote, "would've been to remind Mike that if not for me, he'd still be pumping gas, Al that he'd be a medical supply salesman, and Carl that he'd be running errands for me."

"HarperCollins also settled defamation lawsuits from Carl and Brother Records.

"In his depositions, Brian said he had only skimmed the manuscript and couldn't account for the falsehoods. "I don't recall nothing," he said. We assumed that Landy wrote the actual lies, but as far as I'm concerned, that doesn't exonerate Brian. It's his book, and if you buy it online or find it at a used bookstore, it doesn't come with a cover sticker that reads: "Warning: False and Defamatory Statements Included."

"The most despicable section was the attack on the person who loved Brian the most— his mother. According to the book, Brian often saw his mom "pour a drink in the afternoon and continue sipping through the evening," a bystander to Murry's abuse. She once "looked on as [my dad] tied me to a tree as punishment," and after Murry caught Brian masturbating in his bedroom, Murry demanded that Audree deny their son dinner for two nights.

"My mom complied," Brian wrote.

Aunt Audree sued HarperCollins, but the judge threw out that case. I don't know if Brian ever apologized to his mom.

"My suit against HarperCollins allowed Mike Flynn to gain access to the transcripts of Brian's interviews with his collaborator, Todd Gold. Those interviews

affirmed— according to Brian— that I had been the inspiration of the group and that I had written many of the songs that were now in dispute.

“All of that was a cornerstone for Mike’s investigation into what happened in Brian’s case against Irving Music. Brian’s \$ 10 million settlement had been finalized in May of 1992, which Brian split with his lawyers (who received 40 percent). Around that time, Mike called me at our house in Incline Village and asked to come up. He had some important information.

“I knew that over the past three decades, plenty of things had happened to the Beach Boys that I either didn’t understand or had neglected, but when Mike sat down with us in our living room, he came with piles of documentary evidence that he and his law firm had collected and analyzed, documents that I had never seen before, some dating all the way back to the inception of the group. He had copyright applications for songs, minutes from Brother Records board meetings, incorporation papers from Beach Boy– related companies, and letters. I then received a history lesson in deception, greed, and misplaced loyalty.

“For one thing, Brian’s lawyers misled me from the beginning about the grounds on which they were going to overturn the sale of the catalog. It wasn’t only that Brian was mentally incompetent. It was also that our lawyer at the time of the sale, Abe Somer, was representing both sides of the transaction. He was the Beach Boys’ attorney, but he was also the lawyer for Irving Music and its subsidiary, A& M Records. In addition, Somer was on the board of directors for both Irving Music and A& M Records, and he assisted Irving in the transaction. He never disclosed his dual representation to me or, as far as I knew, to anyone in the Beach Boys. It was a clear conflict of interest, and it was used in Brian’s case against Irving Music to try to overturn the catalog’s sale.”

“That was a shot to the gut. The guy we had entrusted to protect our songs was a snake, and as Mike Flynn explained it, the lies continued to this day. Brian’s current lawyers had to know that if I was aware of the Somer conflict, I would have wanted to join the case against Irving Music. But if I joined Brian’s case, we would have to split the proceeds and take money out of their pockets and Landy’s. These lawyers concealed the Somer conflict from me, even though some of them knew it as early as 1986. Mike explained that because Brian and I had been music and business partners since the inception of the band, Brian and his lawyers had a fiduciary obligation to share that information with me. Instead, they concealed it, and I testified in their case, in exchange for promises of money and credit— promises, of course, that were never kept.

"That was sleazy, but I wasn't surprised. I knew about Landy, and I'd been dealing with corrupt lawyers for decades. But Mike Flynn said I hadn't heard the worst of it. He grabbed another folder and said that the actual sale of the catalog in 1969 was the product of an elaborate scam to defraud me and was the culmination of years of deception.

"I was listening.

"It started with the Sea of Tunes. When it was formed in 1961, it was a sole proprietorship, and Uncle Murry and Brian each had a 50 percent stake, though Brian gave his half away the following year. Throughout the 1960s, Brian told me that he controlled the Sea of Tunes, which reassured me that I needn't worry about my song credits. But according to a 1965 letter from Brian, Uncle Murry controlled the catalog.

"The actual scam began in 1967, when Abe Somer began representing the Beach Boys. Mike told me that Somer had engaged in these kinds of deals in the past, so he knew what he was doing, and once he and my uncle formed an alliance, he could move the pieces into place.

"Their goal was to sell the catalog and pocket the cash, but when Somer investigated the actual songs, he encountered a major problem. When you write a song, you're supposed to assign the copyright to a publisher, through a copyright registration and a songwriter's agreement, and the publisher distributes songwriter royalties from record sales and other publishing fees. For the Beach Boys, Uncle Murry and Brian tried to assign the copyrights to the Sea of Tunes, but when Somer searched for those assignments, he discovered a mess. The wrong songwriter forms had been used, while other forms were incomplete, dated incorrectly, or appeared to have been forged (which was later confirmed). Others were simply missing. Under the laws at the time, if a copyright was not assigned, then it remained with the songwriter, and any alleged copyright holder— in this case, Murry— lost it.

"No one would buy the publishing rights to our songs unless they could also buy the copyrights, but in terms of copyrights, the Sea of Tunes was an empty vessel.

"Fixing the problem required even more chicanery. It involved the incorporation of Brother Records and the Sea of Tunes catalog, which masked the defects in the assignments and limited the liability for the buyer. Even those secret moves weren't enough to ensure the acquisition. I still owned the copyright to all my songs, and I could assert those rights regardless of who owned the catalog. To get the copyrights assigned to the catalog, Somer could have come to me with a stack of

songwriter agreements and asked me to sign them, but I might have asked questions or smelled something rotten. So Somer had to trick me.

"After Murry found a buyer for the catalog, Somer drafted the letter that all the Beach Boys were told to sign. Dated August 20, 1969, and addressed to Irving Music, it said that the songs "authored by [the Beach Boys] have been assigned to Sea of Tunes in accordance with normal practice in the publishing business . . . [and] we acknowledge that we have executed songwriters' agreements whereby all of our rights in and to the foregoing musical compositions have been assigned to Sea of Tunes."

"I had no idea what the hell that meant. So I asked my lawyer— Abe Somer! He told me there was nothing I could do. He didn't tell me that he had secretly planned this transaction for two years and that he represented Irving Music. It was premeditated, cunning, and diabolical. And in signing the letter, I gave away my songs.

"What Mike Flynn told me deepened my contempt for Uncle Murry. I knew he wanted to keep the Beach Boys a family band, but I didn't realize that in his eyes, I was never part of the family. When I later told my dad what happened, he said he wasn't surprised. "I knew he was a crook," he said. "He was always a crook. But he didn't have it out for you. He had it out for me." I'm sure he was right. Jealous of my dad, Murry wasn't going to let the entitled son of his rich brother-in-law receive the credit, the due, that he deserved. My uncle wanted the glory for his sons, and through his duplicity he got it.

Commented [MF1]:

"Mike told me there was another part of the story. Recall, he said, that Brian had signed the letter of August 20, 1969, that paved the way for the catalog's sale. But I needed to read another document, which said that on December 28, 1967, Somer incorporated the catalog into the Sea of Tunes Publishing Company. Mike then pulled out another file and showed me the minutes of a board meeting, apparently the only one ever held by the Sea of Tunes Publishing Company, and the meeting resolved that "the liquidation and the distribution of [the company's] assets be commenced as soon as practicable."

"It was a resolution to sell the catalog.

"Mike told me to look at the signatures.

"It was signed by the company's sole shareholder and director, Murry Wilson, and by the directors, Audree Wilson and Brian Wilson.

"Mike told me to look at the date.

"It was July 21, 1969, a full month before we signed the letter to Irving Music. Brian had told me that his father had fucked us when the catalog was sold, but Brian

had signed the document to commence the sale a full month before it actually happened. He knew his father was trying to sell the catalog, and he approved it.

"Mike also said that in Brian's own suit against Irving Music, his lawyers argued that Brian and Murry each had a 50 percent stake in Sea of Tunes even before its incorporation in 1967, and Brian was now bound by that. In other words, if Brian were a full partner with his father, then all the fraud and deceit surrounding the catalog must also be attributable to Brian. He could not escape responsibility.

"Brian is just as culpable as Murry," Mike said.

"I put my head down in my hands.

"Mike Flynn said that he needed to pursue Brian in order to subpoena additional documents and to depose Brian and his lawyers, but he thought he knew the outlines of his case— that Brian lied to me from the very beginning about the Sea of Tunes; that he bore responsibility for blocking credit on my songs; that he worked with his father in the fraudulent sale of the catalog; and that he and his lawyers have been concealing information from me for years.

"My lawyer was telling me that my cousin was my adversary.

"I rubbed my eyes, looked up, and took a deep breath: "Okay," I said. "Go for it."

"I didn't want to sue Brian, but I knew a resolution was long overdue. I assumed that, in the 1960s, Brian had not credited me on our songs because he wanted to avoid fighting his father. But Murry died in 1973, and even though Irving Music owned the catalog, Brian faced no legal or industry barrier from simply adding my name as a lyricist. But he never did that. Even when I was in bankruptcy proceedings, Brian kept cashing the royalty checks, year after year.

"Actually, I thought the suit would be settled quickly. Brian had just wrapped up a three-year legal battle against Irving Music, and the two-year effort to establish a conservatorship had recently been made final. The last thing he wanted was a courtroom bloodletting that reopened old family wounds. Brian also knew the truth.

"On August 27, 1992, one month after my suit against Brian was filed, the Beach Boys were playing in New Jersey, and Jacquelyne and I were staying at the Rihga Royal Hotel in New York. She was in the room when Brian called and said he needed to speak with me. Jacquelyne told him I was doing an interview with the Associated Press. Brian called back several more times before I had time to reach him. He quickly got to the point.

"You were right to sue me," he said. "I owe you money. I want to pay you."

"I told him that I was sure the lawyers could reach a settlement and that I was less interested in the money than in getting credit on our songs, mainly "California Girls."

"He said he knew that. He also told me that he had been working on a new arrangement of "Proud Mary," and he wanted to do it with the group.

"I told him I couldn't wait to hear it, and we said good-bye. If Brian agreed that I was right to sue him, what was there to argue about? Or so I thought. The settlement talks, however, quickly broke down between Mike Flynn and Brian's conservator, Jerome Billet, who was appointed by a judge. Billet's job was to protect Brian's assets, and I guess Billet thought he could do a better job of that by going to trial.

"What a blunder. I knew that regardless of the outcome, Brian was going to pay a price by exposing himself to a history that he had tried to bury and forget. During a deposition on November 3, 1993, while acknowledging that he owed me money, the lawyers were aghast at what they saw: Brian was hurting himself. His lawyer, Jim Tierney, said, "I want the record to reflect that Brian is digging his fingernails into his arm, and the sores are opening up and bleeding." Tierney urged him to cease."

"I knew the lawsuit was also going to be one of the most stressful experiences of my life, but I had found new ways of coping.

"One day in the early 1980s, I was driving from my house in Santa Barbara to Los Angeles, a drive I often made, but now I pulled off in Calabasas, inland from Malibu, and saw in the rolling hills a Hindu temple. I didn't know anything about it but decided to check it out. Entering the front door, I took off my shoes, walked through the main temple, and soon found my way into the inner sanctum. There the priest was doing an aarti, or a blessing, with a lighted camphor, which emitted a sharp but pleasing aroma. I stood silently as the priest chanted invocations, and then out of the blue, he turned to me.

"Your life is going to get better," he said.

"Excuse me?"

"Your life is going to get better very soon."

"Are you sure?"

"Yes."

"I can't recall how it got better at the time, but I do know that the exchange marked the beginning of my friendship with Narasimha Bhattar, a sturdy, dark-haired Brahmin priest whose job was to interpret the cosmos. He explained how the

relationship among the planets can influence your daily life and how your birth chart can predict your relationship with others or foretell the success of a new job or even a marriage. His philosophy, his way of looking at things, appealed to my desire for esoteric knowledge. It was an alternative but orderly framework to understand a chaotic world.

"On my second visit, Narasimha told me that I should come with him to India to visit the Hindu temples, each one with a presiding deity whose forefather had been a priest there five hundred years ago. I joined him on several pilgrimages to the southern part of that country, to visit these architectural splendors, some of which had been there a thousand years ago. Vedic rituals seemed to recognize the need for physical as well as spiritual engagement; and for someone like me who was easily distracted, these rituals intrigued me because they were active, experiential, and tactile. The supplicants did not have to sit back and await their fate. They could tilt the odds in their favor.

"I wanted to do just that for the trial. Our chances of prevailing were not high, given that so much time had passed— more than thirty years— since the initial wrongs were committed. I knew the facts were on my side, but I wanted cosmic insurance.

"So with Narasimha joining us, Jacquelyne and I took little Brian, now four and a half, to India. I had been traveling to India for several decades, but this was the first time I could integrate that part of my spiritual life with my family life. We rode the elephants together and explored the sights but were there mainly to visit the temples, and I took great pride that I could share this ancient knowledge with my young son. Vedic priests performed different yagnas, or fire sacrifices, in which offerings are made to different deities to achieve results in various parts of your life, including health, career, finances, and personal relationships. Then there are sacrifices for Ganesha, who is the remover of obstacles and whose image— the head of an elephant— is one of the most recognized in the Hindu pantheon.

"I needed some legal obstacles removed. Inside one of the temples, I stood next to a small fire, and with hundreds of priests chanting, I threw into the blaze almonds, chili peppers, and food grains. The goal is not to harm any of your adversaries but to evolve them to a more enlightened state, and it seemed fitting that the temple was equipped with its own choral effects. I loved the sound of the crackling flames, the chants, the invocations, the chorus of drums, bells, and gongs. These were harmonies of the spirit.

"On another occasion, back in the states, Mike Flynn and I visited the temple in Calabasas when he was taking depositions and had hit some roadblock. We asked

Narasimha to chant the thousand names of Ganesha, the linking of the names expressing the belief in the glory of the deity. Narasimha did all the work. Mike and I just sat back and listened until the sounds washed over us. When we got back to our car and drove down the highway, it felt like we were floating.

"The pretrial skirmishing dragged on for many months, in part because Brian's lawyers delayed or blocked access to documents. In February of 1994, Judge William J. Rea reopened discovery when Mike Flynn convinced him that documents had been suppressed. The judge also removed Brian's two lawyers, J. J. Little and Jim Tierney, for conflicts of interest, as their misconduct, acting on Brian's behalf, was part of the case. I didn't have the money to cover Mike's expenses, which included hiring a forensics expert to comb through Brian's computer, and Mike would ultimately spend about \$ 200,000 of his own cash just to keep the case going.

"If I rushed into my other marriages, I compensated by taking a long time with Jacquelyne. To be honest, there almost wasn't a marriage. Not long after Brian was born, Jacquelyne and I separated, for no good reason except my own fears and insecurities about being a father again and making a commitment to a family. That was my pattern. But this time was different. We had some friends— Terry Melcher in particular— who made sure Jacquelyne and I continued to communicate, and they prodded me to open up in a way that I've never done before.

"Jacquelyne and I were back together soon enough, as a couple and a family, on a path I had not taken before. Jacquelyne insisted that it was either all or nothing— either we stay together as a family, including every tour and road trip, or we split up. Tours aren't easy for adults, let alone small children, but Jacquelyne said she would handle the logistics. Off we went, and little Brian had a truly unique childhood. By the time he was three, he had exhausted his passport and had to get a new one. In India, he wanted to wear the same kind of dhoti that I wore. Once on a bus in Germany, our tour manager handed him the public address mic and asked, "Brian, what city are we in now?"

"Dusseldorf!" he cried.

"Before he was in kindergarten, he had seen more parts of America than most people see in their lives. When we performed at festivals or amusement parks, I took him on rides in between concerts. When he was old enough for school, we hired a tutor and homeschooled him. Before going onstage, I'd put him on my shoulders, and he'd yell, "Let's knock out this show!" Then he'd come onstage with us, but he wasn't a prop. He attacked the tambourine viciously, like his dad, and he

could sing! He put his heart into it, and when he was five or six, Carl gave him the last falsetto part on "Fun, Fun, Fun."

"It was the first time I'd done the things you're supposed to do as a dad. I regret how much I missed with my other children but savored every moment this time around.

"For Jacquelyne and me, those years traveling together went a long way toward building trust and reassuring both of us that this relationship was going to work. Hell, our courtship— seven years— had lasted longer than several of my marriages combined, but we finally knew the time was right to get married.

"Jacquelyne had a bridal shower, and Aunt Audree attended and gave her a risqué nightgown. But she told Jacquelyne she couldn't come to the wedding because of the litigation with Brian.

"I don't think it would be the right thing to do," she told her, "but I know you'll be a beautiful bride, and you have my blessing."

"A few days before the wedding, Audree called Jacquelyne. "Guess what," she said.

"We're coming."

"My aunt was always a class act, and I believe she was also instrumental in getting another guest to attend— Brian.

"The wedding itself, on April 24, 1994, was at a lakeside mansion in Tahoe. Carl sang "God Only Knows," and my sister Marjorie and her husband, Joe, sang "When I Fall in Love" and "Ave Maria." Mike Flynn was my best man. He had recently deposed Brian for seventeen days, two hours a day, during which time Brian had admitted— to the dismay of his lawyers— that I had contributed lyrics to thirty-five contested songs. (We initially identified seventy-nine, but that number was too unwieldy.) Professional ethics prevented Mike Flynn from speaking to Brian at the wedding, but in his lengthy and very funny toast, he integrated lyrics from all thirty-five songs. Brian sat and listened to it in good humor and later told Carl how much he liked it. "

"The trial finally began on October 4, 1994, in United States District Court in Los Angeles, and what occurred over the next two months was the most comprehensive history of the Beach Boys ever assembled, in several thousand pages of testimony (including pretrial depositions) and documents (hearings, rulings, motions, contracts, exhibits, letters, interview transcripts, medical reports, boardroom minutes, and more). The jurors heard from Brian and me as well as Al, Bruce, David Marks, Marilyn, and various promoters, record company executives,

lawyers, managers, and medical experts. Carl refused to appear in court, but he was deposed at length, and his testimony was read to the jurors.

"I was on the stand for all or parts of six days. I knew that, when provoked, I could lose my temper, so I consulted a Vedic astrologer, and she told me I could cultivate "sweet speech" by eating "white candies." On the days that I testified, I either drank vanilla milk shakes or ate divinity fudge. It worked, for the most part, though I may have been too irreverent— when I first took the stand, Mike Flynn asked what my occupation was, and I said, "Hard-core unemployable." (I then noted I played in a rock and roll band.)

"Much of my testimony focused on the thirty-five songs. Every Beach Boy, including Brian, acknowledged my contributions, but Brian's lawyers tried to minimize them. Another issue was whether Brian and I were actually "partners." Legally, if we were true business partners, then Brian or his representatives had certain fiduciary obligations to me. But if we weren't partners, then no such obligations existed.

"This was no mere legal point. It cut to the heart of the Beach Boys. Were we really a group in which all members contributed, or was this Brian's band, with the rest of us just along for the ride? If the latter was true, I had no case.

"All I could do was describe how I worked with Brian to create our music, and the jurors would decide.

"When Mike Flynn asked me about "Surfin' USA," I said that Brian borrowed the melody from Chuck Berry's "Sweet Little Sixteen."

"Brian did the arrangement," I explained, "and I took all the disparate words and assembled them in a coherent way so that they would rhyme and you could sing them. There were different surfing spots that were recommended by different neighbors, and I just took the words, wrote them all down, and put them into something that you could sing that rhymed . . . There is part of the song that says, 'Haggerty's and Swami's,' but I ran it together like [singing] 'At Haggerty's-and-Swami's-Pacific-Palisades, San-Onofre-and-Sunset, Redondo-Beach-L.A.' It is like running the lines together in syncopation with the track. So I had to do that because I was singing the lead, and it is an up-tempo song and you just can't go like 'At Haggerty's and Swami's' while the track is pumping. So I remember very clearly tailoring the melody and tailoring the lyrics to fit the track."

"The song," I added, "is credited to Chuck Berry, which is all well and good, but Chuck didn't surf."

"Did you get any credit?"

"No." Then Mike flipped on a CD player and—"If everybody had an ocean . . ."—the jurors listened to the song.

"Hour after hour, I walked the jurors through the process of how I came up with the words for "California Girls" and "I Get Around" and "Be True to Your School" and all the rest, and then I'd sing a few lines and then sometimes Mike Flynn would play the tune, all of which, I believe, left little doubt that I was either the author or coauthor of these songs.

"When Al Jardine took the stand, Mike Flynn asked him what happened when he gave Brian "Sloop John B." "I arranged it in a fashion that I thought Brian would appreciate [and] that we could possibly have as a Beach Boy song," Al said. "I wrote it out for him and played it for him."

"Al testified that to his surprise, Brian completed the song on his own, and it became a hit in America and around the world.

"Did you get credit?" Mike Flynn asked.

"No, I didn't," Al said. "No."

"Brian, in his testimony, denied that Al helped him, but Al had no reason to perjure himself: he wasn't a plaintiff in the case, he had nothing to gain financially, and the song itself wasn't even being contested. But a pattern of behavior was established.

"Beyond disparaging me, the defense centered on showcasing Brian as mentally incompetent from the late 1960s to the current day. It was a dark spectacle. One psychiatrist said that Brian had the mentality of a six-year-old. Another said he had an "organic personality disorder." His conservator said he would not allow Brian to drive because he might hear a voice tell him to turn left when he wasn't supposed to turn left. His current psychiatrist said Brian suffered a "mini-breakdown" as a result of the trial, compromising his ability to testify.

"On the stand, Brian told jurors that he took lithium, Zoloft, Klonopin, clozapine, and Benadryl, four times a day, "to keep my head on an even keel."

"His bloodstream was a flowing pharmacopoeia— Mike Flynn accused the defense of ramping up his meds to debilitate him for the trial— but the strategy was to generate sympathy for Brian while using his mental health issues to exculpate him.

"I attended every day of the proceeding, and Jacquelyne most of the days, and we sat a row behind Mike Flynn and his co-counsel, Philip Stillman. Jacquelyne had to buy me several new suits, as I rarely dressed up, and one night at dinner, our

son said, "I want to go to the place where you wear the suits." My general feeling is that the less exposure you have to our legal system, the better, but if little Brian really wanted to join us, I didn't see a problem.

"Our son inherited the Loves' blond hair (curly) and blue eyes, and he was in a phase where he wanted to wear the same thing I was wearing. So when I wore a gray suit to the courthouse, Jacquelyne bought him a gray suit, and the three of us journeyed to court one morning.

"Cousin Brian was on the stand that day.

"We settled in behind our lawyers and watched one of Brian's attorneys, Douglas Day, ask about "California Girls."

"Brian acknowledged that I wrote it, though he couldn't remember which parts specifically, and blamed his father for not giving me credit. He was asked about other songs—"Wouldn't It Be Nice," "Be True to Your School," "Catch a Wave," "When I Grow Up (To Be a Man)"—and he said he thought we both wrote some parts of them; others, only he; others, he wasn't sure. And there was "Dance, Dance, Dance" ("Mike and Carl wrote it") and "In the Back of MyMind" ("I don't know").

"Little Brian fell asleep between Jacquelyne and me as the testimony droned on, and then the lawyer asked about "I Get Around."

"Do you recall when that song was written?" Day asked.

"Sometime in 1964," Brian said.

"And do you recall who wrote the music for the song 'I Get Around'?"

"I did, with the exception of a possible—possibility that Mike wrote the intro, the 'round 'round.' If you get an instrument, I would be able to demonstrate it."

"Let me ask you, Mr. Wilson, with regard to the writing process, can you explain how you wrote the song 'I Get Around'?"

"No, I can't."

"Can you explain it in words?" "No, I can't."

Day asked for a keyboard, which was at the ready, so Brian could demonstrate. The instrument was wheeled out, and when Brian sat down at it, he perked up noticeably.

"The dispute," he said, "is over who wrote the introduction patter, the vocal patter, like a riff. And I personally can't remember if I had written that, and it had come up previous times that Mr. Love had said that he had written some of the introduction to 'I Get Around.' So explaining what an introduction is versus what a song is, I explain this in these terms."

"Brian then pounded the keys and broke out in song: "' Round 'round get around, I get around!" The chords and his voice were loud and bracing and startled the courtroom.

"Brian explained that the song started with one note, and then he played and sang it again: "' Round 'round I get around!"

"With that, little Brian woke up, looked around, and blurted, "That's my daddy's song!"

"The jurors looked at this moppet in a gray suit. The courtroom fell silent.

"It was an unusually bitter trial, a war within a family and a band, with lawyers thundering at one another at every turn.

"At one point, Judge Rea, who'd been on the bench for twenty-six years, said he had never had a trial in which the attorneys voiced— or yelled— so many objections. And now, out of nowhere, the voice of a child pierced the ramblings of his medicated namesake. I suddenly got emotional and started to well up. I headed for the exit, and Jacquelyne, lifting Brian, followed me to the door.

"Brian Wilson, continuing with his testimony, said, "It does sort of sound like a Mike Love— type of riff."

"In addition to all the testimony, the paper trail told a clear story of deception and complicity. Thanks to the forensic analysis of Brian's computer, Mike Flynn had supplemented the documents from the 1960s with Brian's diary entries from the late 1980s, and they contradicted the depiction of a mental incompetent. Rather, they showed that Brian was intimately involved in his case against Irving Music, following the direction of his counsel and seeking to maximize his financial gain. Noting the guidance that he had received from his lawyers, Brian wrote:

" 'These kinds of questions were leading to the fact that if I was caught saying that I remember when I was told about Sea of Tunes, the statute of limitation would have started instantly. Anyway J.J. assured me that we couldn't get shafted if I answered the questions that J.J. and Jim had been teaching me . . . *We are not talking about two million dollars. We are talking about forty million dollars.*' " (Italics, bold, underline supplied by MJF)

"In other examples, Brian's own words undermined his credibility. When he was on the stand, Mike Flynn read for him an interview he did with Todd Gold, his

collaborator on his memoir, regarding "California Girls." Brian said that he and I wrote the song but I never received credit.

" ' GOLD: Why? Whose fault was that?

BRIAN: That was my fault.

GOLD: Why didn't you give him credit?

BRIAN: Because I forgot that he wrote it with me.

GOLD: Did you ever regret forgetting to give him credit?

BRIAN: Very much so, yes.

Gold asked why he hadn't given me credit since then.

BRIAN: I don't know. I keep fucking up. I keep forgetting to do it. ' "

"He kept forgetting? If "California Girls" had been an obscure song, that might have been believable. But Brian himself described it as the Beach Boys' "anthem." Every time he heard it, played it, sang it, or saw the record itself, he was reminded that this was fraud on vinyl.

"There were songwriter agreements in which my name had been forged, and there were hidden letters and financial arrangements among the lawyers. There was a lot of talk about suppression of evidence and promissory fraud and breaches of contract, but ultimately, after twenty-four days of testimony, the jurors had to decide if Brian Wilson victimized me or was himself a victim of his own frailties.

"In his closing argument, Brian's attorney, Michael Crowe, asked jurors for sympathy. Brian, he said, suffers from a "long-term mental disability . . . So unlike you and hopefully me, who every day can wake up and perhaps with some difficulty go to work and conduct our lives, Brian Wilson can't do that. Brian Wilson can't do that today, he couldn't do it yesterday, and sadly enough, he won't be able to do it tomorrow."

"Crowe also seemed intent on erasing me from Beach Boy history entirely, as he not only rejected my claim for songwriting credit but said I didn't deserve my name on my existing songs: "If you look at the songwriting credit Mike Love received on the songs that he has received credit on, it is mostly 50 percent. We would submit to you that almost all of that was at recording sessions where he didn't deserve credit."

"Crowe suggested that Brian was the real artist; I, a mere handyman: "The artist who creates the music, who is the inventor, gets the credit. You may adjust the frame, but the Picasso doesn't change."

"Mike Flynn, in his closing argument, was equally unsparing toward Brian: "The guy who wrote the songs"— me—" helps his cousin for thirty years, supports him during that whole period of time while at least a good percentage of that money that Mr. Love is earning both from touring revenues and songwriter royalties . . . a good portion of that money is being used for drugs by Brian Wilson while Mr. Love is out working. And then they get his cooperation in Wilson vs. A& M, and then they turn around after they get the cooperation and use it against him . . . I submit to you, ladies and gentlemen, when you think of what has happened here, it is simply outrageous."

"After a lengthy summary of the misrepresentations and betrayals, Mike Flynn concluded: "It has been a long two months . . . The guy who did all the work and wrote the songs hasn't got anything . . . So after you deliberate and consider all these items, all this evidence, all this testimony, I am going to ask you to return a verdict for this man because he deserves it. He wrote the songs."

"To reach a verdict, Brian's lawyers requested that jurors fill out a twenty-five-page questionnaire— a typical request from a defendant. The more that jurors have to consider, or the more deeply they plunge into every piece of evidence, the greater the possibility that doubt will creep in. (Plaintiffs prefer three-line verdicts.) To Mike Flynn's dismay, I told him to accept those instructions. I wanted jurors to consider all aspects of this case. I wanted a long verdict as a document on the history of the Beach Boys.

"The jurors began their deliberations on December 2. Though we all knew what was at stake, I didn't feel nervous. I very much believe in karma, which is a doctrine of universal truth. It basically states that notwithstanding the machinations of man— and regardless of the good or evil in the world— if you follow your conscience, the universe will support the truth. Mike Flynn and I talked about this at length. He knows a lot more about the legal system than I do, so he was worried about how the jurors were reacting to various arguments and rulings. At the same time, I was taking hits in the press for my attempted "money grab." But I remained confident that if you follow what is true, the universe will support it. I was at peace.

"After ten days of deliberation, the jury returned with its "special verdict," and Judge Rea, who at seventy-four was himself showing the stress of a long trial, looked right at Mike and me with a worn smile. Page by page, he read the verdict. The jurors ruled that I deserved credit on all thirty-five songs; that Brian and I were

partners; that Brian or his agents concealed material facts with the intent to defraud me; that they engaged in promissory fraud regarding songwriting credits and royalties; and on and on it went.

"It was a clean-sweep victory. I hugged Jacquelyne and Mike, but there was no celebration, no cheering. I was vindicated but subdued. I was thinking about what came next. When I left the courthouse and faced the television cameras, I said that I hoped this case would allow Brian and me to put the past behind us so that we could write music again.

"The case wasn't over yet. The trial established Brian's liability, but a second trial would determine damages. The enduring popularity of the songs, which included seven Top 10 hits, left Brian badly exposed. To determine lost royalties or compensatory damages, Mike Flynn analyzed the past financial records of Capitol Records and Irving Music and estimated I had lost between \$ 18 million and \$ 22 million. To determine the value of the actual copyright, Mike was going to have experts testify that it was worth between \$ 40 million and \$ 100 million. And because Brian was guilty on multiple counts of fraud, Mike was going to ask for punitive damages, which— if awarded— would have been ten times the compensatory damages.

"Brian was facing potential damages of between \$ 58 million and \$ 342 million— almost certainly the largest case of fraud in music history. Brian's lawyers and friends understood his exposure, and some of them called Mike Flynn, reminding him of Brian's financial commitments to his children and to Marilyn and the costs of his own medical care. They asked him to convince me to settle, but Mike didn't need to. I had no interest in crushing my cousin, and it wasn't about the money anyway. It was about getting credit for my songs. Brian had settled his suit with Irving Music for \$ 10 million, so I proposed that he give me \$ 5 million and we move on.

"Brian agreed.

"By accepting a fraction of what I could have collected, I cost Mike Flynn millions of dollars in contingency fees, every penny of which he earned. But he never pushed me to get more money, nor did he ever waver in a case that became a three-year crusade. With all due respect to Bobby Hatfield and Bill Medley, Mike Flynn is the ultimate Righteous Brother.

" Frankly, I had no idea how much money I was being ripped off each year. Before the trial, I was receiving about \$ 75,000 a year in songwriter royalties. After

the trial, the amount jumped to over \$ 1 million a year. Even that doesn't reflect what I'm owed. I never received credit for "Surfin' USA," the most popular surfing number in history, as it was never part of Sea of Tunes. It was published instead by Arc Music, Chuck Berry's publisher. This apparently stemmed from Chuck's lawsuit against Brian and Capitol, which resulted in Chuck receiving the songwriting credit. I don't know how much money "Surfin' USA" has generated in songwriter royalties over the past fifty-three years, but if I'm going to lose out on millions, it might as well be to Chuck."

"The trial set the record straight, but it didn't affect Brian's reputation. By now, the myth was too strong, the legend too great. Brian was the tormented genius who suffered to deliver us his music— the forever victim, as his lawyer said, or as Brian himself suggested in his beautiful ballad "Till I Die":

I'm a cork on the ocean/ Floating on the raging sea . . . I'm on rock in a landslide/ Rolling over the mountainside . . . I'm a leaf on a windy day/ Pretty soon I'll be blown away . . .

"To Brian's fans, he was beyond accountability. According to the Houston Press, "Wilson suffered the indignity of paying \$ 5 million to Beach Boys singer Mike Love, who sued for co-authorship of 35 songs previously credited solely to Wilson." Yes, the indignity. Peter Ames Carlin, in *Catch a Wave: The Rise, Fall & Redemption of the Beach Boys' Brian Wilson*, wrote: "Mike had taken particular interest in his cousin's lawsuit against A& M's publishing company. And when Brian took home a \$ 10 million settlement in 1992, Mike got in on the celebration by filing a \$ 3 million lawsuit claiming that he had been uncredited for work on [thirty-five] of the songs in question. And if some of Mike's claims were legit . . . others were less convincing." He never mentioned the outcome.

"What the trial did not address was Brian's motives in joining with his father to sell the Sea of Tunes in 1969. At that point, the publishing rights were his, so why sell them— and in the process, sell out the Beach Boys? There are possible explanations. I'll never believe that Brian was "mentally incompetent," but it's possible that the drugs and alcohol, combined with mental illness, made him susceptible to his father's demands or prevented him from fully understanding what he was doing. It's possible that his father agreed to give him part of the \$ 700,000. Asked in a deposition if he received any of that money." "Brian said he didn't recall."

"It's also possible that Brian agreed with his father and with the consensus in the industry— that the Beach Boys were through. All signs pointed to it in 1969. In

March, we had sued Capitol Records for over \$ 2 million in unpaid royalties and production fees. The suit ended our relationship with Capitol, with the label deleting our catalog and refusing to ship past albums to music stores. You couldn't even find Friends, which had been released in June of 1968. This was temporary but squeezed us further financially. In the studio, meanwhile, Brian struggled to finish songs. He began "This Whole World" and "All I Want to Do," but Carl completed them. Brian's gloom was evident in the lyrics to a song he wrote in 1969—"Till I Die."

"Brian stunned all of us on May 27 of that year when he called an impromptu press conference— Brian hated press conferences, yet he would do this one by himself. He told reporters that the Beach Boys were nearly broke. "If we don't watch it and do something drastic in a few months, we won't have a penny in the bank," he said.

"Our finances weren't that bad, and we were just about to launch a successful European tour (though Brian, back home, would have been unaware of its success). Brian told reporters that he was placing his hopes on a new single, "Break Away," that he had written with his dad. How fitting, I suppose, that a collaboration between Uncle Murry and Brian would rescue the Beach Boys from our imminent demise. But it didn't happen.

"Released on June 16, "Break Away" only charted at No. 63, making it our worst-performing single since our debut recording.

"On July 21, Murry and Brian signed the papers to commence the liquidation of the Sea of Tunes Corporation.

"And on August 20, the catalog was gone.

"Now it's probably worth more than \$ 100 million. I've never asked Brian why he did what he did. Some doors are better left shut.

"The experience confirmed everything I knew about the music industry. Recall David Anderle, the "mayor of hip" who presented himself to the writer David Leaf as the defender of artistic integrity during the Smile era. Serving as Leaf's "chief guide," Anderle skewered the Beach Boys for our supposed resistance to Brian's creativity and spent years blaming me for Brian's collapse. The author Steven Gaines later reported that it was Anderle who hired Abe Somer as the Beach Boys' lawyer. I don't know what Anderle knew about Somer, but I do know that in 1970, Anderle formed a production company whose main job was sending artists to Irving Music's A & M Records. The label was probably a nice fit for Anderle, as he went to high school with

its founders, Herb Alpert and Jerry Moss. In 1973, with Abe Somer still on its board, A& M Records hired Anderle to be its director of talent development.

“So in summary . . . the Beach Boy lawyer who engineered the fraudulent sale of our catalog was introduced to us by a man who ended up working at the very company that bought the catalog— a scam that enriched that company mightily and, indirectly, all of its employees, including David Anderle, who, everyone agreed, had a smashing twenty-six-year career at A& M Records.

“What a town.”